

**ASSEMBLY BILL**

**No. 246**

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**Introduced by Assembly Member Bradford**

February 6, 2013

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An act to amend Section 54957 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 246, as introduced, Bradford. Local government: open meetings.

The Ralph M. Brown Act requires each legislative body of a local agency to provide the time and place for holding regular meetings and requires that all meetings of a legislative body be open and public. Under the act, all persons are permitted to attend any meeting of the legislative body of a local agency, unless a closed session is authorized. Under the act, the legislative body of a local agency is authorized to hold closed sessions with the Attorney General, district attorney, agency counsel, sheriff, or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, a threat to the security of essential public services, as specified, or a threat to the public's right of access to public services or public facilities.

This bill additionally would authorize the legislative body of a local agency to hold these closed sessions with the Governor. This bill also makes various technical nonsubstantive changes.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 54957 of the Government Code is  
2 amended to read:

3 54957. (a) ~~Nothing contained in this chapter shall~~ *This chapter*  
4 *shall not* be construed to prevent the legislative body of a local  
5 agency from holding closed sessions with the *Governor*, Attorney  
6 General, district attorney, agency counsel, sheriff, or chief of  
7 police, or their respective deputies, or a security consultant or a  
8 security operations manager, on matters posing a threat to the  
9 security of public buildings, a threat to the security of essential  
10 public services, including water, drinking water, wastewater  
11 treatment, natural gas service, and electric service, or a threat to  
12 the public's right of access to public services or public facilities.

13 (b) (1) Subject to paragraph (2), ~~nothing contained in this~~  
14 ~~chapter shall~~ *this chapter shall not* be construed to prevent the  
15 legislative body of a local agency from holding closed sessions  
16 during a regular or special meeting to consider the appointment,  
17 employment, evaluation of performance, discipline, or dismissal  
18 of a public employee or to hear complaints or charges brought  
19 against the employee by another person or employee unless the  
20 employee requests a public session.

21 (2) As a condition to holding a closed session on specific  
22 complaints or charges brought against an employee by another  
23 person or employee, the employee shall be given written notice of  
24 his or her right to have the complaints or charges heard in an open  
25 session rather than a closed session, which notice shall be delivered  
26 to the employee personally or by mail at least 24 hours before the  
27 time for holding the session. If notice is not given, any disciplinary  
28 or other action taken by the legislative body against the employee  
29 based on the specific complaints or charges in the closed session  
30 shall be null and void.

31 (3) The legislative body also may exclude from the public or  
32 closed meeting, during the examination of a witness, any or all  
33 other witnesses in the matter being investigated by the legislative  
34 body.

1 (4) For the purposes of this subdivision, the term “employee”  
2 shall include an officer or an independent contractor who functions  
3 as an officer or an employee but shall not include any elected  
4 official, member of a legislative body or other independent  
5 contractors. ~~Nothing in this subdivision shall~~ *This subdivision shall*  
6 *not* limit local officials’ ability to hold closed session meetings  
7 pursuant to Sections 1461, 32106, and 32155 of the Health and  
8 Safety Code or Sections 37606 and 37624.3 of the Government  
9 Code. Closed sessions held pursuant to this subdivision shall not  
10 include discussion or action on proposed compensation except for  
11 a reduction of compensation that results from the imposition of  
12 discipline.

13 SEC. 2. The Legislature finds and declares that Section 1 of  
14 this act, which amends Section 54957 of the Government Code,  
15 imposes a limitation on the public’s right of access to the meetings  
16 of public bodies or the writings of public officials and agencies  
17 within the meaning of Section 3 of Article I of the California  
18 Constitution. Pursuant to that constitutional provision, the  
19 Legislature makes the following findings to demonstrate the interest  
20 protected by this limitation and the need for protecting that interest:

21 Without some freedom to protect sensitive information, security  
22 is compromised. Therefore, the health and safety of the people of  
23 California are enhanced by giving governing bodies the authority  
24 to meet with the Governor in closed meetings to discuss security  
25 matters that may include sensitive information.